

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DISCOVERORG, LLC,)	
)	
Plaintiff,)	Case No.
)	
v.)	COMPLAINT
)	
ALLGRESS, INC.)	JURY DEMAND
)	
Defendant.)	

Plaintiff DiscoverOrg, LLC (“DiscoverOrg”), for its complaint against Allgress, Inc. (“Allgress”) alleges as follows:

PARTIES

1. DiscoverOrg is a Delaware limited liability corporation with its principal place of business in Vancouver, Washington.

2. Allgress is a Nevada corporation with a principal place of business in the State of California and does business in the State of Washington.

JURISDICTION AND VENUE

3. This court has jurisdiction over the subject matter of the claims herein pursuant to 18 U.S.C. §§ 1331 and 1338(a) and (b) because DiscoverOrg’s claim arises under Federal Law.

4. This court also has jurisdiction over DiscoverOrg’s state law claims pursuant to 28 U.S.C. § 1367 under principles of supplemental jurisdiction.

1 5. This court has personal jurisdiction over Allgress, and venue is properly laid in
2 this district court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. §1400(a), in that Allgress
3 transacts business in this state and has committed tortious acts within this state.

4 **FACTS AND ALLEGATIONS**

5 **A. DiscoverOrg's Database**

6 6. DiscoverOrg is a provider of business-to-business ("b2b") marketing data for
7 the information technology ("IT") industry. DiscoverOrg uses technology, computers, and
8 electronic communication systems to provide subscribers with profiles, contacts, and other
9 information relating to the IT, finance, and marketing infrastructure of Fortune 5000 and mid-
10 market companies around the United States. DiscoverOrg's database contains profiles and
11 organizational charts of more than 36,000 companies and contains more than 600,000 business
12 contacts. DiscoverOrg has been recognized in the industry as the most complete and accurate
13 b2b marketing database. The depth, breadth, and accuracy of DiscoverOrg's data are unrivaled
14 in the marketplace.

15 7. DiscoverOrg has made substantial investments in infrastructure and resources to
16 support its database and ensure that it is of the highest quality. DiscoverOrg's highly-trained
17 research analysts focus exclusively on building, managing, and updating DiscoverOrg's
18 database, resulting in timely and comprehensive data being made available to DiscoverOrg's
19 clients. DiscoverOrg has expended substantial labor, time, resources, effort, and money to
20 select, gather, collect, organize, generate, arrange, and disseminate the timely and continuously
21 updated information DiscoverOrg provides in its database. For example, DiscoverOrg employs
22 approximately 150 employees and has made significant investment in developing and
23 purchasing software, hardware and other equipment to continuously update and support the
24 accuracy and comprehensiveness of its database. DiscoverOrg's database exhibits
25 DiscoverOrg's decisions and input as to the selection, arrangement, orchestration, compilation,
26 and presentation of the organizational charts, contacts, and other information collected and
27 assembled by DiscoverOrg's analysts.

1 8. DiscoverOrg's database is of unparalleled value to companies like Allgress, who
2 seek detailed information to assist in their efforts to market their IT-related products and
3 services. DiscoverOrg has licensed subscription access to its database to over 1400 companies,
4 each of whom pays a significant license fee for the right to access and use DiscoverOrg's
5 database.

6 9. The value of DiscoverOrg's database is directly related to and dependent upon
7 its proprietary and non-public nature. Accordingly, DiscoverOrg takes substantial steps to
8 protect the security of the information contained in its database. For example, DiscoverOrg
9 limits access to its database to only authorized users pursuant to a restrictive license agreement,
10 which limits the number of users who have access to DiscoverOrg's database and requires that
11 all information be destroyed after the terms of the license agreement expire. DiscoverOrg
12 password protects access to its database, and utilizes mail monitoring and list protection at
13 substantial costs to further secure and ensure the integrity of DiscoverOrg's database.

14 **B. Allgress's Wrongful Conduct**

15 10. All actions alleged to have been done by Allgress were, upon information and
16 belief, performed by employees or other agents of Allgress within the scope of their
17 employment or other agency relationship with Allgress, on Allgress's behalf, and for Allgress's
18 benefit.

19 11. Allgress used identification information and passwords that did not belong to it,
20 and that it was not authorized to use, in order to access DiscoverOrg's database. From July 24,
21 2014 through August 19, 2015, Allgress gained unauthorized access to DiscoverOrg's database
22 using usernames and passwords issued to DiscoverOrg clients pursuant to such clients' valid
23 licenses.

24 12. On these occasions, Allgress accessed and downloaded DiscoverOrg's
25 proprietary information without permission from DiscoverOrg. Allgress used their
26 unauthorized access to perform searches within the database using DiscoverOrg's technology
27 and to view and download thousands of records. There are approximately 21 known incidents

1 of unauthorized access to DiscoverOrg's database by Allgress, during which Allgress
2 downloaded more than 3,200 records.

3 13. Allgress acted knowingly, intentionally, and willfully in accessing
4 DiscoverOrg's computer and electronic communication system without authorization and in
5 viewing and downloading DiscoverOrg's proprietary, copyrighted information. Allgress
6 circumvented DiscoverOrg's security system and unlawfully accessed DiscoverOrg's database
7 to gain the commercial benefit thereof without compensating DiscoverOrg. Allgress's
8 unauthorized use of DiscoverOrg's proprietary information has furthered Allgress's financial
9 interest by facilitating identifying and contacting potential new customers and business
10 opportunities, among other uses, and Allgress has wrongfully profited therefrom.

11 14. At all relevant times, Allgress had a duty to train and supervise the conduct of
12 its employees and agents acting on its behalf. Allgress was negligent in failing to appropriately
13 train and monitor its employees and agents and failing to have appropriate policies in place
14 regarding unauthorized access to computer systems, communication, storage networks, and
15 copyrighted works and/or failing to enforce such policies.

16 **FIRST CLAIM FOR RELIEF**

17 (Copyright Infringement)

18 15. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-
19 14.

20 16. DiscoverOrg's database is an original work of authorship containing
21 copyrightable subject matter for which copyright protection exists under the Copyright Act.
22 DiscoverOrg has filed for copyright registration with the United States Copyright Office in
23 compliance with 17 U.S.C. § 101 *et seq.* DiscoverOrg's copyright was registered December 27,
24 2010 with registration number TX0007487999.

25 17. As owner of all right, title, and interest in and to the copyrighted works,
26 DiscoverOrg is entitled to all the exclusive rights and remedies accorded by Section 106 of the
27 Copyright Act to a copyright owner, including the exclusive rights to reproduce the copyrighted

1 works and to sell non-exclusive licenses to those copyrighted works.

2 18. Allgress has gained access to and made and used copies of DiscoverOrg's
3 copyrighted material without authorization or license from DiscoverOrg. Allgress used those
4 copies without compensating DiscoverOrg for Allgress's financial gain without compensating
5 DiscoverOrg. In doing so, Allgress has violated DiscoverOrg's exclusive rights of reproduction
6 and distribution.

7 19. At all relevant times, Allgress had the right and the ability to supervise and
8 monitor the actions its employees and agents, whose actions were performed on its behalf and
9 for its direct financial benefit and were within the scope of their employment for Allgress.

10 20. With knowledge of the infringing activity, Allgress induced, caused, facilitated,
11 encouraged, and/or or materially contributed to the infringing conduct.

12 21. Allgress's acts of infringement have been willful and intentional, in disregard of
13 and with indifference to the rights of DiscoverOrg.

14 22. As a direct and proximate results of the foregoing acts, DiscoverOrg has been
15 and will continue to be harmed. DiscoverOrg is entitled to its actual damages, including any
16 and all profits due to Allgress's wrongful conduct, or statutory damages. DiscoverOrg is also
17 entitled to its costs, including reasonable attorney fees.

18 **SECOND CLAIM FOR RELIEF**

19 (Violation of the Computer Fraud and Abuse Act)

20 23. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-
21 14.

22 24. DiscoverOrg's computer system and database comprise "protected computers"
23 within the meaning of 18 U.S.C. § 1030(e)(2).

24 25. Allgress, knowingly and with intent to defraud DiscoverOrg, accessed
25 DiscoverOrg's protected computers without authorization and thereby obtained valuable
26 information from such protected computers using interstate communication.

27 26. Allgress's actions constitute violations of 18 U.S.C. §§ 1030(a)(2)(C) and

1 1030(a)(4).

2 27. Allgress's unauthorized access of DiscoverOrg's computer has caused loss to
3 DiscoverOrg during a three month period of more than \$5,000 in value.

4 28. By reason of the foregoing, DiscoverOrg is entitled to compensatory damages
5 in an amount to be determined at trial pursuant to 18 U.S.C. § 1030(g).

6 **THIRD CLAIM FOR RELIEF**

7 (Violation of the Stored Communications Act)

8 29. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-
9 14.

10 30. DiscoverOrg's network of computer servers and related equipment constitutes a
11 "facility" providing "electronic communications services" as those terms are defined in 18
12 U.S.C. § 2510(15). DiscoverOrg's database constitutes an "electronic storage" device as that
13 term is defined in 18 U.S.C. § 2510(17).

14 31. Allgress willfully and intentionally accessed DiscoverOrg's password-
15 protected computer service and database without authorization and obtained wire and electronic
16 communications between DiscoverOrg and its clients stored therein.

17 32. Allgress's actions constitute willful and intentional violations of 18 § U.S.C. §
18 2701. By reason of the foregoing, DiscoverOrg is entitled to recover compensatory damages,
19 statutory, and punitive damages, Allgress's profits, and DiscoverOrg's attorney fees and costs
20 against Allgress pursuant to 18 U.S.C. § 2707.

21 **FOURTH CLAIM FOR RELIEF**

22 (Misappropriation of Trade Secrets)

23 33. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -
24 14.

25 34. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth,
26 commercially-valuable information (including reporting structures, contact information, and
27 other data) expending substantial time, labor, and expense.

35. The compilation of information in DiscoverOrg's database is the exclusive knowledge of DiscoverOrg and is not known, and cannot be accessed, by anyone except customers who have agreed to maintain the confidentiality of such information through a restrictive license, which forbids them from sharing or disseminating the information and requires that they return and/or destroy the information when their license expires. The commercial value of DiscoverOrg's database is directly correlated to and dependent upon its proprietary and non-public nature.

36. DiscoverOrg protects the information in its database by limiting access to those customers who agree to the terms of the access in the licensing agreement. DiscoverOrg monitors access to the database and use of the information to further ensure its security.

37. Allgress willfully and maliciously misappropriated DiscoverOrg's trade secrets by accessing DiscoverOrg's computer systems without authorization, copying the information contained therein, and using that information for Allgress's financial gain.

38. Allgress's actions have caused damage to DiscoverOrg in the form of lost profits and diminution of the market value of its database. By reason of the foregoing, Allgress is liable to DiscoverOrg for reasonably royalties, compensatory damages, wrongfully derived revenues, and exemplary damages, in an amount to be proven at trial, plus DiscoverOrg's costs including reasonable attorney fees.

FIFTH CLAIM FOR RELIEF

(Misappropriation)

39. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 - 14.

40. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth, commercially-valuable information (including reporting structures, contact information, and other data) expending substantial time, labor, and expense.

41. Allgress intentionally and without permission, accessed, and copied information from the database, used the stolen information for their own financial gain, and profited

1 therefrom. Allgress has taken a “free-ride” on DiscoverOrg’s skill, labor, and, costly and
2 substantial efforts in creating its commercially-valuable database.

3 42. Allgress’s actions have damaged DiscoverOrg in the form of lost profits and
4 diminution of the market value of its database. By reason of the foregoing, misappropriation of
5 DiscoverOrg’s data, Allgress is liable to DiscoverOrg for compensatory damages including
6 wrongfully derived revenues in an amount to be proven at trial.

7 **SIXTH CLAIM FOR RELIEF**

8 (Trespass to Chattels)

9 43. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -
10 14.

11 44. DiscoverOrg owns a computer system that houses its proprietary electronic
12 database. DiscoverOrg grants password access to this system only to its clients.

13 45. Allgress intentionally accessed DiscoverOrg’s computer system without
14 authorization and thereby interfered with DiscoverOrg’s possessory interest in its computer
15 systems.

16 46. As a result of Allgress’s trespass to DiscoverOrg’s computer system, Allgress
17 caused damage to DiscoverOrg’s database including, but not limited to, the diminution in the
18 market value of DiscoverOrg’s computerized data and information stored on such computer
19 system. By reason of the foregoing, Allgress is liable to DiscoverOrg for compensatory
20 damages in an amount to be proven at trial.

21 **SEVENTH CLAIM FOR RELIEF**

22 (Unjust Enrichment)

23 47. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -
24 14.

25 48. Through Allgress’s wrongful actions described herein, Allgress has been
26 unjustly enriched through the use of DiscoverOrg’s commercial-valuable data without
27 compensation to DiscoverOrg.

1 49. Allgress is therefore liable to DiscoverOrg to the extent of such unjust
2 enrichment in an amount to be determined at trial.

3 **EIGHTH CLAIM FOR RELIEF**

4 (Negligence)

5 50. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -
6 14.

7 51. At all relevant times, Allgress was under a duty to take reasonable care in
8 training and supervising its employees and other agents acting on its behalf.

9 52. It was foreseeable that the failure to train and supervise employees and other
10 agents regarding appropriate methods for obtaining sales and marketing information for the
11 benefit of Allgress would harm a third party such as DiscoverOrg.

12 53. Allgress breached its duty when it failed to train and supervise its employees by
13 allowing them in the unlawful conduct set forth in this complaint. In particular, Allgress failed
14 to properly implement and enforce a policy prohibiting such conduct, as would be required of
15 a reasonable person.

16 54. As a direct and proximate result of Allgress's negligence, DiscoverOrg has
17 suffered damage in the form of lost profits and diminution of the market value of its database.
18 Allgress is liable to DiscoverOrg for compensatory damages in an amount to be proven at trial.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, DiscoverOrg prays for the following relief:

- 21 1. entry of judgment in its favor and against Allgress on all counts;
- 22 2. as to its First Claim for Relief, actual or statutory damages plus costs including
23 reasonable attorney fees;
- 24 3. as to its Second Claim for Relief, compensatory damages;
- 25 4. to its Third Claim for Relief, actual, statutory, and punitive damages plus costs,
26 including reasonable attorney fees;
- 27 5. as to its Fourth Claim for Relief, reasonable royalties, compensatory damages,

1 wrongfully derived revenues, and exemplary damages plus costs, including reasonable attorney
2 fees;

3 6. as to its Fifth Claim for Relief, compensatory damages;

4 7. as to its Sixth Claim for Relief, compensatory damages;

5 8. as to its Seventh Claim for Relief, the amount by which Allgress has been
6 unjustly enriched;

7 9. as to its Eighth Claim for Relief, compensatory damages; and

8 10. such other relief as the Court may deem just and equitable.

9 DATED: November 12, 2015

10 Respectfully submitted,

11
12
13 By _____
14 Anthony M. Stark, WSBA No. 48776
15 General Counsel
16 DiscoverOrg, LLC
17 805 Broadway St., Suite 900
18 Vancouver, WA 98660
19 360.718.5635
20 anthony.stark@discoverorg.com

21 Attorney for Plaintiff
22
23
24
25
26
27